

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION

HUNTER DARYL SMITH, )  
                          )  
Plaintiff,             )  
                          )  
v.                      )                          CASE NO. 2:24-cv-361-JTA  
                          )                          (WO)  
BILL FRANKLIN, Elmore County )  
Sheriff, in his individual capacity, et al.,     )  
                          )  
Defendants.             )

**ORDER**

Before the court is the Motion to Dismiss Plaintiff's First Amended Complaint, which was filed by Defendants Bill Franklin, Tracey Jackson, Josh Tidwell, G.L. Young, S. Svencer,<sup>1</sup> and A. Rinds. (Doc. No. 30.)

In the motion, Defendants seek dismissal of Plaintiff's First Amended Complaint (Doc. No. 20) on qualified immunity grounds and for failure to state a claim upon which relief can be granted. However, on September 30, 2024, Plaintiff filed a Second Amended Complaint. (Doc. No. 41.) The Second Amended Complaint supersedes the First Amended Complaint, rendering it a nullity. *See Hoebling v. City of Miami*, 811 F.3d 1271, 1277 (11th Cir. 2016) (noting that, because an earlier pleading is abandoned and superseded by an amended pleading, “[w]hen [the plaintiff] filed the second amended complaint, the first amended complaint (and its attached exhibits) became a legal nullity”); *Dresdner Bank AG, Dresdner Bank AG in Hamburg v. M/V OLYMPIA VOYAGER*, 463 F.3d 1210, 1215

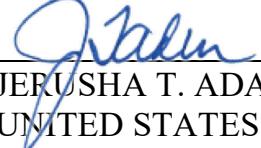
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<sup>1</sup> The record is unclear as to whether this Defendant's name is “S. Spencer” or “S. Svencer.”

(11th Cir. 2006) (“An amended pleading supersedes the former pleading; ‘the original pleading is abandoned by the amendment, and is no longer a part of the pleader’s averments against his adversary.’” (quoting *Proctor & Gamble Defense Corp. v. Bean*, 146 F.2d 598, 601 n. 7 (5th Cir. 1945)<sup>2</sup>); *Geathers v. Bank of Am., N.A.*, No. 1:14-CV-00850, 2015 WL 348852, at \*1 (N.D. Ga. Jan. 26, 2015) (adopting the recommendation of the magistrate judge to dismiss as moot a dispositive motion directed at a complaint that had been superseded by amendment). Accordingly, it is

ORDERED that the Motion to Dismiss Plaintiff’s First Amended Complaint (Doc. No. 30) is DENIED as moot.

DONE this 7th day of October, 2024.



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JERUSHA T. ADAMS  
UNITED STATES MAGISTRATE JUDGE

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<sup>2</sup> In *Bonner v. City of Prichard*, 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc), the Eleventh Circuit adopted as binding precedent all decisions of the former Fifth Circuit handed down prior to October 1, 1981.